

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)	
)	
Carmeuse Lime, Inc.)	NOTICE OF VIOLATION AND
Chicago, Illinois)	FINDING OF VIOLATION
)	
Proceedings Pursuant to)	EPA-5-04-11-IL
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	

NOTICE AND FINDING OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) finds that Carmeuse Lime, Inc. (Carmeuse) is violating Section 112 of the Clean Air Act, 42 U.S.C. § 7412, and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Lime Manufacturing Plants at 40 C.F.R. Part 63, Subpart AAAAA. In addition, U.S. EPA finds that Carmeuse is violating Title V of the Clean Air Act, 42 U.S.C. §§ 7661 et seq., and applicable regulations at 40 C.F.R. Part 70 and the Illinois State Implementation Plan (SIP).

Regulatory Authority

NESHAP for Lime Manufacturing Plants

1. On January 5, 2004, the U.S. EPA promulgated 40 C.F.R. part 63, subpart AAAAA, the NESHAP for lime manufacturing plants. 69 Fed. Reg. 393 ("Subpart AAAAA regulations"). The Subpart AAAAA regulations are applicable to any person who owns or operates a lime manufacturing plant that is located at, or is part of, a major source of HAP emissions. 40 C.F.R. § 63.7081(a).

2. A "lime manufacturing plant" (LMP) is an establishment engaged in the manufacture of lime product by calcination of limestone, dolomite, shells or other calcareous substances. 40 C.F.R. § 63.7081(a)(1).

3. A "major source of HAP" is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more per

year from all emission sources at the plant site. 40 C.F.R. § 63.7081(a)(2).

4. If an owner or operator wishes to claim that the LMP is an area source, they must measure the emissions of hydrogen chloride from all lime kilns. 40 C.F.R. § 63.7142.

5. The Subpart AAAAAA regulations apply to each existing or new lime kiln and their associated cooler(s). 40 C.F.R. § 63.7082(a).

6. A "new lime kiln" is a lime kiln for which construction or reconstruction began after December 20, 2002, and which meets the applicability criteria in 40 C.F.R. § 63.7081 at the time construction or reconstruction began. 40 C.F.R. § 63.7082(b).

7. A lime kiln is "reconstructed" if it meets the criteria for reconstruction defined in § 63.2 of the Part 63 General Provisions, Subpart A. 40 C.F.R. § 63.7082(d).

8. 40 C.F.R. § 63.2. defines "reconstruction" as "the replacement of components of an affected or a previously nonaffected source to such an extent that--

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the reconstructed source to meet the relevant standard(s) established by the Administrator pursuant to section 112 of the Act. Upon reconstruction, an affected source, or a stationary source that becomes an affected source, is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source."

9. 40 C.F.R. § 63.7100(d) requires that a new lime kiln subject to Subpart AAAAAA regulations which starts up after January 5, 2004, must prepare and implement for each LMP a written operations, maintenance, and monitoring plan (OM&M plan). The facility must submit the plan to the applicable permitting authority for review and approval. Pending approval, the owner or operator must comply with the provisions of the submitted plan.

10. 40 C.F.R. § 63.7100(e) requires that a new lime kiln subject to Subpart AAAAAA regulations which starts up after January 5, 2004, must develop and implement a written startup, shutdown, and malfunction plan.

11. 40 C.F.R. § 63.7130(a) requires that a new lime kiln subject to Subpart AAAAA regulations which starts up after January 5, 2004, must submit all applicable notifications in 40 C.F.R. § 63.9(a) through (j). 40 C.F.R. § 63.9(b)(5) requires the owner or operator of a new or reconstructed affected source for which an application for approval of reconstruction is not required under 63.5(d) to provide the following information in writing to the Administrator:

- (i) A notification of intention to construct a new affected source, reconstruct an affected source, or reconstruct a source such that the source becomes an affected source, and
- (ii) A notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

Title V Regulations

12. On March 7, 1995, U.S. EPA promulgated final interim approval of the Illinois Title V operating permit program (60 Fed. Reg. 12478), and the program became effective on that date.

13. All terms and conditions in a Title V permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Act. 40 C.F.R. § 70.6(b).

14. The permittee must comply with all conditions of its Title V permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. 40 C.F.R. § 70.6(a)(6)(i).

Illinois SIP

15. On September 13, 1999, U.S. EPA approved 35 I.A.C. 212.316, Emission Limitations for Sources in Certain Areas, for incorporation into the Illinois SIP. 64 Fed. Reg. 37851 (July 14, 1999).

16. 35 I.A.C. 212.316(g)(1) requires owners and operators of any fugitive particulate matter emission unit to keep written records of the application of control measures and to submit these records to the Illinois EPA in an annual report. See also Carmeuse's June 3, 2003, Title V Permit (Title V Permit) Condition 7.6.9

17. 35 I.A.C. 212.316(g)(5) requires owners and operators of any fugitive particulate matter emission unit to submit quarterly reports pertaining to control measures. The quarterly reports are required to provide the dates any necessary control measures were not implemented, a listing of those control measures, the reasons that the control measures were not implemented, and any corrective actions taken.

18. 35 I.A.C. 212.316(g)(4) Title V Permit Condition requires that owners and operators keep and maintain records required under 35 IAC 212 onsite for at least three years and be available for inspection. See also Title V Permit Condition 7.6.9(a)(iv)

19. The Illinois SIP requirements identified in paragraphs 16 and 17 are federally enforceable under Sections 110 and 113 of the CAA, 42 U.S.C. §§ 7410 and 7413.

Carmeuse's Facility

20. Carmeuse owns and operates a lime manufacturing plant at 3245 East 103rd Street, Chicago, Illinois (the "South Chicago facility"). The South Chicago facility is engaged in the manufacture of lime product by calcination of limestone, dolomite, shells or other calcareous substances.

21. Carmeuse has not claimed that its LMP is an area source by measuring emissions of hydrogen chloride from all lime kilns, therefore it remains a major source.

22. The Illinois Environmental Protection Agency issued to Carmeuse a Title V permit which became effective on June 3, 2003. Title V Permit Condition 5.2.6.c states that Carmeuse will be subject to 40 CFR Part 63, Subpart AAAAA, when such rule becomes final and effective. The rule became effective on January 5, 2004.

23. On June 26, 2003, U.S. EPA sent to Carmeuse a Clean Air Act, Section 114, Request for Information in which it requested, among other things, Carmeuse's Capital Expenditure Budget. U.S. EPA received this document, dated December 31, 2003, on January 5, 2004. It identifies, among other things, capital improvements that Carmeuse intended to complete on kiln #4 at the South Chicago facility.

24. According to Carmeuse's Capital Expenditure Budget, the fixed capital cost of the new components for the reconstruction of kiln #4 exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source.

25. U.S. EPA conducted an inspection of the Carmeuse South Chicago facility on January 13, 2004. During the inspection, Carmeuse told U.S. EPA that physical reconstruction for kiln #4 began September of 2003. Kiln #4 started up on or about January 14, 2004.

26. Carmeuse has not prepared and implemented for its LMP a written OM&M plan. Furthermore, Carmeuse did not submit an OM&M plan to the Illinois EPA, and is not complying with the provision of an OM&M plan pending approval by Illinois EPA.

27. Carmeuse has not developed and implemented a written startup, shutdown, and malfunction plan according to the provisions in §63.6(e)(3).

28. Carmeuse has not submitted a notification of intention to reconstruct an affected source, or reconstruct a source such that the source becomes an affected source, and has not submitted a notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

Title V and Illinois SIP

29. Title V Permit Condition 7.2.13.c. requires Carmeuse to submit a Progress Report regarding the facility's compliance with the NSPS for Lime Manufacturing, Subpart A, and the Illinois SIP every 6 months, beginning 6 months from the date of issuance of the permit and ending upon the achievement of compliance. Carmeuse was required to submit a Progress Report by December 3, 2003.

30. Carmeuse did not submit its December 3, 2003, Progress Reports as required by their Title V permit.

31. Title V Permit Condition 7.6.10.c. requires Carmeuse to submit quarterly reports to the Illinois EPA regarding control measures and to maintain certain records for the affected fugitive emission sources.

32. Carmeuse did not submit quarterly reports thirty (30) calendar days from the end of the quarter to the Illinois EPA as required by their Title V Permit and the Illinois SIP.

33. At the January 13, 2004, inspection, Carmeuse did not have complete records for application of control measures onsite.

Violations

34. Carmeuse has failed to prepare and implement for each LMP a written operations, maintenance, and monitoring plan; failed to submit an OM&M plan to the permitting authority; and failed to comply with the provision of an OM&M plan pending approval in violation of 40 C.F.R. §§ 63.7100(d).

35. Carmeuse has failed to develop and implement a written SS&M plan in violation of 40 C.F.R. §§ 63.7100(e).


36. Carmeuse has failed to submit all applicable notifications as required by 40 C.F.R. §§ 63.7130(a).

37. Carmeuse has failed to submit the December 3, 2003, Progress Report in violation of Title V Permit Condition 7.2.13.c.

38. Carmeuse has failed to provide the Illinois EPA quarterly reports by July 30, 2003, October 30, 2003, and January 30, 2004, in violation of 35 I.A.C. 212.316(g)(5) and Title V Permit Condition 7.6.10(c).

39. Carmeuse failed to have complete records for application of control measures onsite in violation of 35 I.A.C. 212.316(g)(1) and Title V Permit Condition 7.6.9(a).

3/31/2004
Date



Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Finding of Violation, No. EPA-5-04-11-IL, by Certified Mail, Return Receipt Requested, to:

Mr. Randall Boisvert
Regional Environmental Manager
Carmeuse Lime, Inc. - South Chicago Plant
3245 East 103rd Street
Chicago, Illinois 60617


I also certify that I sent copies of the Finding of Violation by first class mail to:

Julie Armitage, Section Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois 62702

Joe Kotas, Bureau of Air
Illinois Environmental Protection Agency
9511 West Harrison Street
Des Plaines, Illinois 60016

Maggie Rice, Deputy Commissioner
City of Chicago Department of Environment
30 North LaSalle Street
Chicago, Illinois 60602

on the 31st day of March, 2004.


Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0178 4339